



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3009391
Applicant Name: James Jessup
Address of Proposal: 3100 Portage Bay Place East

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow an 85 sq. ft. addition to an existing floating home.

The following approvals are required:

Shoreline Substantial Development Permit - to allow expansion of an existing floating home in an Urban Residential (UR) shoreline environment - Seattle Municipal Code (SMC) 23.60.020.

SEPA Environmental Determination - Chapter 25.05, (SMC)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site, a houseboat moorage slip (Slip "A") and one slip of six on this parcel, is located in a Single-Family 5000 (SF 5000) zone and Urban Residential (UR) shoreline environment. The site is located wholly over water on Portage Bay, a part of Lake Union. A portion of the houseboat extends onto Department of Natural Resources land, for which the owners have a lease agreement with DNR.

Area Development

The overwater / shoreline area in both directions from the subject site consists of houseboats and, on land, a variety of residential structures of varying ages.

Proposal Description

The applicant proposes to construct an 85 square foot addition to a floating home that includes expansion to the first level (float deck level) that includes a bedroom, bathroom, and utility rooms, and roof expansion that includes a dormer. No part of the proposed work will extend beyond the footprint of the existing float.

Public Comment

No letters were received during the public comment period that commenced May 19, 2009 and ended June 21, 2009.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The policies and procedures of Chapter 90.58 RCW;

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse affects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a

local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The roof deck addition does not conflict with the public interests of protecting the Portage Bay / Lake Union shoreline, and will not interfere with the public's use of the water. The subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 that are found in the Seattle Comprehensive Plan, and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

Shoreline Environment: Development Standards

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Residential (UR) environment, as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment. The proposed addition requires a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposal is permitted in the UR shoreline environment SMC 23.60.540, and must meet the standards for the UR environment.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with

the Shoreline Management Program and with best management practices for the specific use or activity. Relevant to this proposal, SMC 23.60.152.J requires that *“all shoreline development and uses must be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.”*

The proposed addition will have no adverse impact on the surrounding land and water uses and is compatible with the affected area.

SMC 23.60.196 – Floating Homes

This section sets forth standards for floating home moorages and the floating home structures within these moorages. This addition makes no changes to the existing moorage arrangement and thus was not reviewed under the moorage standards. This section does regulate the height and over water coverage of floating homes. Height for non-conforming floating homes is limited to 18 feet at the highest point. The proposed addition will extend to this height. The over water coverage will not be increased.

SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Residential (UR) environment as set forth in SMC 23.60.220.C.6 is to protect residential areas. No negative impact will occur to this residential area by the construction of this addition.

SMC 23.60.540 – Uses Permitted Outright in the UR Environment

The Urban Residential environment permits floating homes as a principal use. The proposal is an addition to this principal use.

SMC 23.60.570 – Development Standards for the Urban Residential Environment

The proposal would meet the development standards for floating homes as outlined in SMC 23.60.196 above.

In summary, as designed, the proposal is supported by both the purpose of the UR shoreline environment and the specific development regulations of the Shoreline Master Plan.

C. The provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state’s Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist dated May 2009, and supplemental information in the project file submitted by the applicant's agent. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision. The Director of the Department of Planning and Development (DPD) has determined that the proposal is not likely to have probable significant adverse environmental impacts.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

Short - Term Impacts

The following temporary or construction-related impacts are expected: increased noise. Impacts to the aquatic environment are not anticipated provided the BMP's (Best Management Practices) of the associated SSDP are implemented and followed.

Noise

The Noise Ordinance regulates the level and time of construction noise that is permitted to weekday hours of 7 a.m. to 7 p.m. and between 9 a.m. and 7 p.m. on weekends, provided that noise is within the limits set forth in SMC 25.08.425. Because of the close proximity of multiple residences on and close to the project site, and consequently, the likelihood of early morning and evening construction noise disturbing nearby residents, the hour limitations of the noise are inadequate; therefore mitigation is appropriate as follows:

- As a **Condition of Approval** and in addition to the general Noise Ordinance requirements, all noise producing construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. and Saturdays from 9:00 a.m. and 6:00 p.m.

Long - Term Impacts

No long-term or use-related impacts are anticipated as a result of the construction of this addition.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. A Supplemental EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

SHORELINE CONDITIONS

The following conditions to be enforced during construction and for the life of the project shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

Prior to Issuance of a Construction Permit

1. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), and shall be subject to the following:
 - a) The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards, and regulations of water quality management programs and regulatory agencies.
 - b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPs that will be used during the proposed work.
 - c) No treated wood shall be used in any decking material.
 - d) Prior to commencing construction, an emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be

stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.

During Construction

2. The owner(s), builder(s), or responsible party(s) shall follow the BMPs developed to prevent debris and other deleterious material from entering the water during demolition and construction.
 - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
 - b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
3. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
4. No treated wood shall be used in the decking material.
5. Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

CONDITIONS – SEPA

During Construction

6. All noise producing construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. and Saturdays from 9:00 a.m. and 6:00 p.m.
7. The above limits on construction hours shall be posted on the subject house boat and visible to others from the adjacent float.

Signature: _____ (signature on file) Date: August 3, 2009
Art Pederson, Land Use Planner
Department of Planning and Development

AP:bg